

THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION

CIVIL CASE NO. 1:11cv290

RICKY KEITH CUTSHALL,)	
)	
Plaintiff,)	
)	
vs.)	<u>ORDER OF REMAND</u>
)	
MICHAEL J. ASTRUE,)	
Commissioner of Social Security)	
Administration,)	
)	
Defendant.)	
)	

THIS MATTER is before the Court on the Defendant's Motion for Reversal and Remand Pursuant to Sentence Four 42 U.S.C. § 405(g). [Doc. 13]. The Plaintiff consents to the motion.

Sentence four of 42 U.S.C. § 405(g) provides, in pertinent part, that “[t]he court shall have power to enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Commissioner of Social Security, with or without remanding the cause for a rehearing.” The Defendant here has moved for reversal of his decision and for remand of this case for further administrative proceedings.

The Court finds that remand is appropriate. See Melkonyan v. Sullivan, 501 U.S. 89, 111 S.Ct. 2157, 115 L.Ed.2d 78 (1991). Upon remand to the Commissioner, the Appeals Council shall instruct the ALJ to: (1) reevaluate the opinion proffered by consultative examiner Stephen Burgess, M.D., Ph.D., and explain the weight afforded to the opinion, including, if appropriate, why certain portions of the opinion were accepted or rejected; and (2) further evaluate the credibility of the Plaintiff's subjective complaints, including but not limited to complaints of pain, in view of the medical evidence of record. If the record that is developed upon remand establishes the presence of significant work related limitations, supplemental evidence from a vocational expert will be obtained.

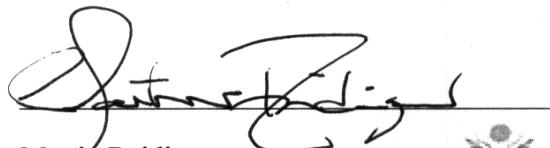
IT IS, THEREFORE, ORDERED that the Defendant's Motion for Reversal and Remand Pursuant to Sentence Four 42 U.S.C. § 405(g) [Doc. 13] is **GRANTED**.

IT IS FURTHER ORDERED that the decision of the Commissioner of Social Security is hereby **REVERSED** and this case is hereby **REMANDED** for further administrative proceedings, consistent with this Order.

The Clerk of Court shall enter a separate Judgment of Remand simultaneously herewith. The Clerk of Court is notified that this is a final judgment closing the case.

IT IS SO ORDERED.

Signed: June 26, 2012



Martin Reidinger
United States District Judge

